

ESTTA Tracking number: **ESTTA742795**

Filing date: **04/27/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Mined LLC
Granted to Date of previous extension	04/27/2016
Address	2 Central St.#13 Ipswich, MA 01938 UNITED STATES
Correspondence information	Oliver Edwards Law Office of Oliver Edwards LLC 9919 Rogart Road Silver Spring, MD 20901 UNITED STATES oliver@edwardslaw.pro Phone:301-841-8050

Applicant Information

Application No	86464842	Publication date	12/29/2015
Opposition Filing Date	04/27/2016	Opposition Period Ends	04/27/2016
Applicant	Clique Media, Inc. 3rd Floor Los Angeles, CA 90048 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Downloadable mobile applications for portable handheld devices featuring software for promoting the goods and services of others by featuring links to the goods and services of others; downloadable mobile applications for portable handheld-devices for arranging for the same day delivery to a consumer of items of purchased online over a global computer network by the consumer</p>
<p>Class 035. First Use: 0 First Use In Commerce: 0 Opposed goods and services in the class: On-line retail store services featuring home goods, electronics, and digital products, namely, mobile applications, online training courses, and e-subscriptions; Promoting the goods and services of others by providing hypertext links to the web sites of others, namely, providing a website featuring and linking to websites featuring the goods and services of others; Promoting the goods and services of others by providing a website featuring product reviews and recommendations and links to the websites of others; Promoting the goods and services of others by providing web-based links for use by affiliates to promote the sale of goods of others</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Attachments	Notice of Opposition Final.pdf(433905 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Oliver Edwards/
Name	Oliver Edwards
Date	04/27/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 86/464842

Published in the Official Gazette of December 29, 2015, Page TM 52-1615 in International
Classes 9, 35, 39 and 45

Mined LLC,

Opposer,

-v-

Clique Media, Inc.,

Applicant.

Opp. No.: _____

NOTICE OF OPPOSITION

Mined LLC (“Opposer”), a Delaware limited liability company located and doing business at 2 Central St. #13, Ipswich, Mass 01938, believes it will be damaged by registration of the mark shown in Application Serial No. 86/464842 as to international classes 9 and 35, and opposes the same.

The grounds for the opposition are as follows.

1. Since before the filing date of the Application, Opposer has used in commerce, or has used in a manner-analogous-to-trademark-use, the mark MINED, the domain names mined.com and mined.fm, and trade name Mined LLC in connection with digital goods marketplace services.

2. Opposer filed articles of organization with the Delaware Secretary of State establishing Opposer with the name Mined LLC in May of 2013. Opposer has used the trade

name Mined LLC in connection with digital goods marketplace services since at least as early as October 2014.

3. Opposer has owned the internet domain name mined.com since at least as early as September 2013 and began thereafter advertising, offering and promoting digital goods marketplace services in connection with the display of its MINED mark and trade name on internet web pages available at, inter alia, mined.com.

4. Opposer's predecessor in interest registered the internet domain name mined.fm since as early as January 2013 and began thereafter advertising and promoting digital goods marketplace services and soliciting digital goods vendors in connection with the display of its MINED mark and mined.fm domain name on internet web pages available at, inter alia, mined.fm.

5. By virtue of Opposer's regular or recurring use, or regular or recurring use-analogous-to-trademark use, promotional efforts, commercial efforts, sales, and advertising efforts over the last three+ years without abandonment, digital goods marketplace services consumers throughout the United States, including digital goods consumers, have come to recognize the services advertised, provided and sold under Opposer's MINED mark, trade name and domain names and the valuable goodwill represented by the mark and names.

6. Since prior to Applicant's intent to use Application, Opposer's services associated with its MINED mark, domain names, and trade name have included:

- Digital goods marketplace services.

7. MINED, mined.com, mined.fm and Mined LLC are inherently distinctive for Opposer's said services.

8. Opposer's trade name and common law rights accrued in connection with Opposer's use or use-analogous-to-trademark-use of the MINED mark are directly owned by Opposer and are valid and subsisting and Opposer's internet domain names are valid and subsisting and held in trust by Opposer's agents.

9. Applicant represents in its amended Application 86/464842 that it has a bona fide intent to use MINED in connection with:

- Downloadable mobile applications for portable handheld devices featuring software for promoting the goods and services of others by featuring links to the goods and services of others; downloadable mobile applications for portable handheld devices for arranging for the same day delivery to a consumer of items of purchased online over a global computer network by the consumer (IC 9);
- On-line retail store services featuring clothing, footwear, fashion accessories, beauty products, home goods, electronics, and digital products, namely, mobile applications, online training courses, and e-subscriptions; Promoting the goods and services of others by providing hypertext links to the web sites of others, namely, providing a website featuring and linking to websites featuring the goods and services of others; Promoting the goods and services of others by providing a website featuring product reviews and recommendations and links to the websites of others; Promoting the goods and services of others by providing web-based links for use by affiliates to promote the sale of goods of others (IC 35);
- Delivery services for others, namely, parcel delivery by third parties (IC 39); and
- Styling services for others, namely, personal wardrobe styling services; Personal shopping for others (IC 45).

10. On information and belief, neither the Applicant nor any predecessor or related company of Applicant has any basis for claiming rights in MINED in connection with the identified goods and services prior to Opposer's first use or use-analogous-to-trademark-use of its MINED mark, domain names and trade name.

11. Applicant's Application to register the MINED mark is without Opposer's consent.

12. On information and belief, Applicant intends to use MINED in international classes 9 and 35 in connection with at least one enumerated good or service directed specifically to digital goods marketplace services and in the same channels of trade in which Opposer advertises, promotes and provides its services.

13. On information and belief, Applicant intends to use MINED in international classes 9 and 35 in connection with at least one enumerated good or service provided directly to digital goods vendors and digital goods consumers.

14. Applicant's applied-for mark is identical to Opposer's MINED mark and the commercially dominant portion of Opposer's trade name and domain names.

15. Applicant's use of MINED is likely to cause confusion, mistake or deception with Opposer and its MINED mark, domain names, and trade name, individually and collectively, and is likely to cause purchasers and others erroneously to believe that Applicant or its goods and services are in some way legitimately connected with or sponsored by, licensed or approved by, Opposer.

WHEREFORE, registration by Applicant of MINED for the goods and services stated in in international classes 9 and 35 of the subject Application would be damaging to Opposer and

Opposer requests that this Opposition be sustained and the Application refused as to those classes.

Opposer submits the requisite filing fee of \$300 per class of goods and services opposed, that is, \$600. Please debit any deficiency or credit any overpayment to USPTO deposit account 50-5453. Please address all correspondence to the undersigned.

DATED: April 27, 2016

/Oliver Edwards/
Oliver Lee Edwards (Reg. no. 64,711)
LAW OFFICE OF OLIVER EDWARDS LLC
9919 Rogart Rd
Silver Spring, MD 20901
tel: 301-841-8050
fax: 301-273-1020
email: oliver@edwardslaw.pro

ATTORNEY FOR MINED LLC.

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of April, 2016, I served the foregoing NOTICE OF OPPOSITION in the matter of Application Serial No. 86/464842, Mined LLC v. Clique Media, Inc., on applicant by first-class mail prepaid to its attorney of record at its correspondence address of record:

Michelle A. Cooke, Esq.
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064

and via e-mail to the correspondent e-mail addresses of record:

mcooke@manatt.com and IPDocket@manatt.com.

/Oliver Edwards/
Oliver Lee Edwards
LAW OFFICE OF OLIVER EDWARDS LLC
9919 Rogart Rd
Silver Spring, MD 20901
tel: 301-841-8050
fax: 301-273-1020
email: oliver@edwardslaw.pro